

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WINDSOR FLEURY,

Plaintiff,

-against-

NEW YORK CITY TRANSIT AUTHORITY

Defendant.
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FEUERSTEIN, J.

I. Introduction

Plaintiff Windsor Fleury ("Plaintiff") initiated this action against defendant New York City Transit Authority ("Transit Authority") alleging employment discrimination and retaliation in violation of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*, the New York State Human Rights Law ("NYSHRL"), N.Y. Exec. Law. § 290 *et seq.*, and the New York City Human Rights Law ("NYCHRL"), Administrative Code of the City of New York § 8-101 *et seq.* This Court granted summary judgment in favor of the Transit Authority on all counts on December 10, 2004. On December 15, 2005, the United States Court of Appeals for the Second Circuit vacated "that part of the district court's judgment for the Transit Authority on [Plaintiff's] State and City discrimination claims arising out of the Transit Authority's perception of Fleury's psychological well-being." (Opinion at 4). The Court remanded those claims to this court "with instructions for it to dismiss the remaining claims without prejudice to their being brought in an appropriate state forum." (*Id.* at 4-5).

FILED

IN CLERKS OFFICE

U.S. DISTRICT COURT ED. N.Y:

★ JAN 4 2006 ★

P.M. _____

TIME A.M. _____

02-cv-5266

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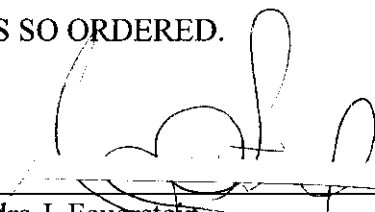
OPINION & ORDER

C/W
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II. Order

In conformance with the Second Circuit's remand, it is hereby ORDERED that Plaintiff's State and City discrimination claims arising out of the Transit Authority's perception of his psychological well-being are DISMISSED WITHOUT PREJUDICE to their being brought in an appropriate state forum.

IT IS SO ORDERED.



Sandra J. Feuerstein
United State District Judge

Dated: December 21, 2005
Brooklyn, New York

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